

INVESTIGATIVE REPORT

HRC Case No.: HV10-0003

HUD Case No.: 01-09-0550-8

CHARGING PARTY: Finbar Patrick McGarry

RESPONDING PARTIES: Dismas of Vermont, Inc.

CHARGE: Housing/disability

Summary of Charge: On July 28, 2009, Finbar Patrick McGarry filed a discrimination charge alleging Dismas of Vermont (hereinafter Dismas) discriminated against him based on his disability. Specifically, Mr. McGarry alleged that Dismas rejected his application for housing at Dismas House because of his disability without conducting an individualized assessment as to whether his acceptance would create a "direct threat" to others.

Summary of Response: On September 1, 2009, the respondents filed a reply to Mr. McGarry's discrimination charge denying it had discriminated against Mr. McGarry. Specifically, it stated that Dismas House was not a "dwelling" under the fair housing laws. Further, even if it was a dwelling for the purposes of fair housing, it was exercising its right to establish and enforce legitimate business practices necessary to protect and manage its rental property. Dismas alleged that Mr. McGarry's history of violent behavior created a direct threat to the safety of the other residents of Dismas House.

The Human Rights Commission determined that there were reasonable grounds to believe that Dismas discriminated against Patrick McGarry in violation of 9 V.S.A. §4503(a)(1) of the Vermont Fair Housing and Public Accommodations Act by its failure to accept Mr. McGarry as a resident without conducting an individualized assessment of whether Mr. McGarry was a direct threat to residents and/or property of Dismas House.